IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

REVIEW PETITION NO.6 OF 2004

IN

SECOND APPEAL NO.584 OF 1986

Shri Pandit Anant Thorat
since deceased and survived by
his legal heirs
Smt.Jeejabai Pandit Thora & ors : Petitioners.

versus

Shri Shankar Mahadeo Dhawale
since deceased and survived by
the following heirs
Shri Baban Shankar Dhawale & ors : Respondents.

Mr.A.V.Anturkar for the petitioners.
Mr.G.S.Godbole for the respondents.

CORAM : D.G.DESHPANDE,J.

DATED : 10th March 2005.

ORAL ORDER

1. I heard the advocates for the petitioners

and respondents. This review petition is filed by the original respondents in the Second Appeal No.584 of 1986 against my order dated 27th August 2003. That appeal was filed by the heirs of Shankar Mahadev Dhavale against the petitioners in review petition and, by that order the second appeal was partly allowed and the suit of the plaintiff in respect of Survey No.22/84 for reconveyance was decreed and other claim was rejected. Under Order XLVII of the Code of Civil Procedure the review is permitted (1) if there is discovery of new and important matter or evidence which could not be produced at the time when decree or order was passed or; (2) on account of some mistake or error apparent on the face of record or; (3) for any other sufficient reason.

2. The present case is not a case where there is any discovery of new and important evidence. But, according to the petitioners, there is a mistake apparent on the face of record. The petitioners have admitted in para 4 that so far Gat No.91 is concerned, the petitioners have no grievance in this review petition. But their grievance is only in respect of Gat No.92. In fact, in my order I have

referred to the survey numbers and the relief granted to the plaintiffs is in respect of survey No.22/48 and it appears that the grievance of the petitioners is in respect of that particular relief. Now it is tried to be contended that the plaintiffs have failed to prove the readiness and willingness and till the findings of the District Court are perverse, this court should not have allowed the appeal in respect of Gat No.92 i.e. Survey No.22/48. None of these submissions come under the provisions of Order XLVII. Firstly there is no mistake apparent on the face of record, at least, nothing was pointed to me. What was the substantial question formulated at the time of admission of the appeal was referred to me and on that basis the appeal was disposed of. Therefore, there is no merit in this Review Petition. The same is dismissed. No order as to costs.

[D.G.DESHPANDE]

10/03/2005 JUDGE.